



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

MICHAEL G. FLETCHER
FLETCHER YODER
P O BOX 692289
HOUSTON, TX 77269-2289

OCT 02 2006

OFFICE OF PETITIONS

In re Application of :
Chad A. Cobbley et al :
Application No. 10/770,941 : DECISION ON PETITION
Filed: February 3, 2004 : UNDER 37 CFR 1.181
Attorney Docket No. MICA:0078-2 :
:

This is a decision on the petition filed March 6, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Note 37 CFR 1.181(f). The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to timely pay the issue and publication fees on or before September 8, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed June 8, 2005. A Notice of Abandonment was mailed on November 11, 2005.

Petitioner asserts that the issue and publication fees were timely paid. To support this statement, petitioner has supplied a copy of the previously submitted correspondence, bearing a certificate of mailing date of September 8, 2005, and a copy of a return postcard date stamped September 19, 2005 by the U.S. Patent and Trademark Office (USPTO), which acknowledges receipt of a transmittal letter for submission of the issue fee and form Part B.

The Part B - Fee(s) Transmittal form was received in the USPTO on September 19, 2005 with an authorization to charge the issue and publication fees to Deposit Account No. 13-3092. Unfortunately, however, there were insufficient funds in petitioner's deposit account on September 20, 2005, the date an attempt was made, to charge the requested fees.

Petitioner has not complied with 37 CFR 1.25(a) which states that "[a]n amount sufficient to cover all fees, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted. In view thereof, the holding of abandonment was proper and will not be withdrawn.

Petitioner should consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting the acceptance of a delayed payment of the issue and publication fees.

Should petitioner seek relief under the provisions of 37 CFR 1.137(a), a statement explaining the procedures used for tracking the balance of funds in the deposit account and why the procedures failed in this instance to alert petitioner of the need to replenish the account must be submitted. If the deposit account is maintained by someone other than petitioner, a statement from the responsible individual must be submitted. The statement must set forth the amount of experience, training and degree of supervision of the responsible individual. Additionally, petitioner must state what checks were made on the described work of the responsible individual which were used to assure proper execution of assigned tasks.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.


Frances Hicks
Petitions Examiner
Office of Petitions